

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(ALEXANDRIA DIVISION)**

Belinda Clayton

Plaintiff,

v.

Color Me Beautiful, Inc.
7000 Infantry Ridge Road
Suite 200
Manassas, Virginia 20109

Service on Registered Agent:
Steven O. DiAntonio
7000 Infantry Ridge Road
Suite 200
Manassas, Virginia 20109

and

Steven O. DiAntonio
(In his individual capacity)
7000 Infantry Ridge Road
Suite 200
Manassas, Virginia 20109

Defendants.

COMPLAINT

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Belinda Clayton (“Ms. Clayton” or “Plaintiff”), by counsel, hereby complains and alleges as follows:

NATURE OF THE CASE

1. This is an action brought under the Fair Labor Standards Act (“FLSA”), 29

U.S.C. §201 et seq., by Plaintiff against Defendants Color Me Beautiful, Inc. and

Steve DiAntonio (“DiAntonio”)(jointly referred to as “Defendants”) for minimum

wage and overtime violations of the FLSA. Plaintiff seeks her unpaid minimum wages and overtime wages, an equal amount as liquidated damages, plus her reasonable attorney's fees and expenses.

JURISDICTION AND VENUE

2. This court has subject matter jurisdiction over the FLSA claims under 28 U.S.C. § 1331 and 28 U.S.C. §1337.
3. Venue is proper in this district and in this division by virtue of 28 U.S.C. §1391(b) because, among other reasons, a substantial part of the events or omissions giving rise to the claims occurred in this district.

THE PARTIES

4. Plaintiff is an adult female resident of Manassas, Virginia. Plaintiff was employed by Defendants from on or about September of 2003 until June 28, 2019. At all times relevant to this complaint, Plaintiff was employed by Defendants in this District and within this Division.
5. Defendant Color Me Beautiful, Inc.("Color Me Beautiful") is a Virginia corporation. Color Me Beautiful has its principal place of business located in Manassas, Virginia. Color Me Beautiful at all times relevant to this Complaint conducted business activity in Prince William County, Virginia, in this District. Color Me Beautiful is an enterprise as defined at 29 U.S.C. § 203(r)(1) and is an enterprise engaged in interstate commerce as defined at 29 U.S.C. § 203(s)(1)(A). At all times relevant to this Complaint, Color Me Beautiful was an employer of Plaintiff under the terms of the FLSA.

6. At all times relevant to this Complaint, Defendant Steve DiAntonio (“DiAntonio”) was CEO and a chairman of Color Me Beautiful. At all times relevant to this Complaint, DiAntonio exercised significant control over the day to day happenings at Color Me Beautiful with regard to Plaintiff, including the power to select and hire any employee, the power to fire any employee, the power to set wages and compensation for any employee, and the power to control any employee. At all times relevant to this Complaint, DiAntonio was an employer of Plaintiff for purposes of the FLSA.

FACTUAL ALLEGATIONS

7. On information and belief, Color Me Beautiful both had an annual gross volume of sales or business done of \$500,000.00 or more at all times relevant herein.
8. All Defendants together had an annual gross volume of sales or business done of \$500,000.00 or more at all times relevant herein.
9. Color Me Beautiful and/or DiAntonio were an enterprise engaged in interstate commerce or in the production of goods for interstate commerce as defined by the FLSA, at all times relevant herein.
10. At all times relevant to this Complaint, Defendants were all employers of Plaintiff under the FLSA.
11. Defendants all engaged in interstate commerce by such means as regularly making telephone calls to persons in other states, receiving payments from persons in other states, and using goods manufactured in other states.
12. Defendants and/or their agents required and/or suffered or permitted Ms. Clayton to work uncompensated overtime hours.

13. Defendants and/or their agents often required Ms. Clayton to incorrectly record her hours spent working in order to avoid the overtime and record keeping requirements of the FLSA.
14. In some or all workweeks, Defendants failed to maintain regular pay periods and failed to correctly account for Ms. Clayton's hours of work.
15. Defendants failed to inform Ms. Clayton of her rights under the FLSA and/or misled Ms. Clayton concerning her rights under the FLSA.

COUNT ONE—VIOLATION OF FLSA MINIMUM WAGE AND OVERTIME REQUIREMENTS
(Against both Defendants)

16. The allegations of the preceding paragraphs are reincorporated by reference.
17. Defendants did not compensate Ms. Clayton for all hours that Defendants required and/or "suffered or permitted" Ms. Clayton to work with the actual or constructive knowledge of Defendants.
18. Defendants regularly and willfully required Ms. Clayton to work in excess of 40 hours during a workweek and/or "suffered or permitted" such overtime work
19. Defendants did not pay Ms. Clayton one and one-half times her regular rate of pay for all hours worked in excess of 40 in each workweek (i.e., overtime hours worked).
20. Defendants regularly and willfully violated the FLSA by not compensating Ms. Clayton for all hours she was required and/or "suffered or permitted" to work and/or by not paying all overtime compensation due to Ms. Clayton and/or making deductions from her pay that reduced the minimum and/or overtime wages required to be paid to Ms. Clayton.

21. By reason of the foregoing, Plaintiff has been damaged and is due unpaid compensation (including unpaid overtime compensation), an amount equal to that unpaid compensation as liquidated damages, as well as reasonable attorneys' fees, expenses, and costs under 29 U.S.C. §216(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants Color Me Beautiful, Inc. and Steve DiAntonio, jointly and severally, for her unpaid overtime compensation in an amount to be determined at trial, an amount equal to that unpaid compensation as liquidated damages, interest, reasonable attorney's fees and expenses, costs, and such other relief as this Court considers proper.

Plaintiff demands a trial by jury.

Respectfully Submitted,
Belinda Clayton
By and through her Attorneys,

DATED: July 16, 2019



Zachary A. Kitts
Virginia Bar # 47052
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FLSA CONSENT FORM

I hereby consent to be a party plaintiff in this action brought pursuant to the Fair Labor Standards Act to recover my unpaid minimum and/or overtime wages, liquidated damages, attorney's fees and costs from my former employers. I understand that I will be bound by the results of this litigation to recover my unpaid wages, overtime, liquidated damages, attorney's fees, and costs. I hereby request that my attorneys be paid their reasonable attorney's fees and costs.

Belinda Elaine Clayton
Full Legal Name (print)

Phone _____

[Signature]
Signature

7/11/19
Date

Return this form to: Zachary A. Kitts
K&G Law Group, PLLC
3554 Chain Bridge Road
Suite 100
Fairfax VA 22030
Phone: 703-649-5500